

**DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED REGULATION TEXT**

**TITLE 3. FOOD AND AGRICULTURE
DIVISION 4. PLANT INDUSTRY
CHAPTER 1. CHEMISTRY
SUBCHAPTER 1. FERTILIZING MATERIALS**

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§ 2302. Non-Nutritive Standards.

(a) Inorganic commercial fertilizer and agricultural mineral products shall not exceed the following standards for the non-nutrient metals arsenic, cadmium and lead:

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(3) The concentration limits are applied as follows:

(B) For phosphate (P₂O₅) materials multiply the guaranteed percentage of P₂O₅ by the arsenic, cadmium and lead maximum concentrations as expressed in parts per million (ppm).
Example: A guaranteed available 52% (P₂O₅) phosphate product will have the following limits: arsenic ~~208~~ 104 parts per million (~~4~~ 2 ppm X 52); cadmium ~~342~~ 208 parts per million (~~6~~ 4 ppm X 52); and lead 1,040 parts per million (20 ppm X 52).

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(6) The concentration limits are applied as follows:

(A) A guaranteed available 3% (P₂O₅) phosphate product with 2% guaranteed zinc will have the following limits. Example: arsenic, ~~46~~ 36 parts per million (13 ppm X 2 zinc = 26 ppm + ~~20~~ 10 ppm); cadmium, ~~54~~ 44 parts per million (12 ppm X 2 zinc = 24 ppm + ~~30~~ 20 ppm); and lead, 380 parts per million (140 ppm X 2 zinc = 280 ppm + 100 ppm).

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Note: Authority cited: Sections 407, 14502 and 14682, of the Food and Agricultural Code.
Reference: Section 14682, Food and Agricultural Code.

§ 2304. Biotics.

All fertilizing materials for which claims are made relating to organisms, enzymes or organisms by-products are auxiliary soil and plant substances and are subject to the registration requirement of Section 14601 of the Food and Agricultural Code, ~~whether or not the material would otherwise be exempt from registration as a commercial fertilizer.~~

In addition to the information required by Section 14601 of the Food and Agricultural Code, the label of each product which contains organisms, enzymes, and other biologically active by-products of organisms for which claims are made shall state:

(a) Name of each species and strains as part of the statement of composition and name of each by-product, if claimed.

(b)(1) The percentage or number of viable units of microorganisms per cubic centimeters or per gram for dry material.

(2) The concentration in percentage of enzymes or other organism by-products claimed.

(c) The expiration date for use.

(d) Storage conditions.

A generally accepted laboratory method for assaying the viable and attenuated units, ~~and the by-products claimed,~~ and a copy of the analysis, must be submitted with the registration application.

When used for the purpose intended, the product must not be pathogenic to plants or pathogenic to animals which may consume the treated plant. Biotic products such as *Rhizobium* spp., ~~*Gigaspora*~~ *Gigaspora* spp., *Glomus* spp., and *Pisolithus* spp., are acceptable for registration. Other biotic products are acceptable based on efficacy data.

Note: Authority cited: Sections 407, 14502, 14601 and 14631, Food and Agricultural Code.
Reference: Sections 14594, 14601 and 14631, Food and Agricultural Code.

§ 2320.3. Scope of Organic Input Material.

(a) A fertilizing material shall be considered to be an organic input material requiring label registration under the following circumstances:

(1) The fertilizing material making claims of compliance to the United States Department of Agriculture, National Organic Program (NOP) standards, or claims for use in organic crop and food production, including but not limited to, submission by the supplier, distributor, or manufacturer for listing by a third-party organic input material review organizations recognized by the NOP.

(2) The fertilizing material includes claims on labels, labeling, literature or extensions of labels, such as websites or social media outlets, or other electronic or verbal communications that the products are suitable for use in the organic crop and food production system.

(b) "Natural Organic Fertilizer" as defined in section 14548 of the Food and Agricultural Code, shall not require registration, under the following circumstances:

(1) The product does not have a label as a fertilizing material, does not make claims of compliance with United States Department of Agriculture, NOP standards, regulations, or statutes, or does not claim that it is acceptable or approved for use in organic crop and food production.

(2) The product does not make nutrient claims on literature, bills of lading, laboratory analysis or extensions of labels, such as websites, social media outlets, or verbal communication.

Note: Authority cited: Sections 407, 14502, 14548, 14550.5 and 14601, Food and Agricultural Code. Reference: Section 14601, 14550.5, 14548, and 14631, Food and Agricultural Code.

§ 2320.4 Use of the Term “Organic” on Labels and/or Labeling.

(a) Fertilizing material labels and/or labeling displaying the term “organic” in the licensee’s name on the label, logos, slogans, or brand names, shall be registered as an organic input material or shall comply with subsection (c) by December 31, 2015.

(b) Label and labeling claims implying that a product is suitable for organic crop and food production shall be registered as an organic input material or shall comply with subsection (c). Organic claims include, but are not limited to, the following: Organic gardening, certified organic, and compliance with National Organic Program (NOP) standards.

(c) The use of the term “organic” on fertilizing materials labels and/or labeling not meeting the NOP standards shall include the following declaration: “Not for use in organic crop and food production in the State of California.”

(1) The declaration shall appear in the display panel of the label.

(2) The declaration shall be in such a style of type of lettering as to be clearly and conspicuously presented with respect to other type, lettering, or graphic material on the label.

Note: Authority cited: Sections 407, 14502, 14550.5 and 14601, Food and Agricultural Code. Reference: Section 14601, 14550.5, and 14631, Food and Agricultural Code.

ARTICLE 6. CIVIL PENALTY

§ 2322. Civil Penalty Guidelines.

Table “A”: Violations Matrix

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35. CCR § 2303 (j) - Derivation Statement (For Commercial Fert & Ag Min)	The label shall include a derivation statement.	X			Notice of warning. Pending non-compliance, FAC 14681 (a) applies.	<u>30 days to comply.</u>
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§ 2322.3. Hearing Procedures.

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(f) The decision shall be issued within ~~24 hours~~ 15 days after the conclusion of the hearing and may be issued orally at the conclusion of the hearing subject to written confirmation.

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Note: Authority cited: Sections 407, 14502, 14601, 14651, 14651.5, Food and Agricultural Code.
Reference: Sections 14653, 14655, 14681, and 14682, Food and Agricultural Code; and
Sections 11425.50 and 11445.10, Government Code.

§ 2324. Access for Sampling.

Authorized staff may take a sample for analysis from any lot of fertilizing material which is in the possession of any producer, manufacturer, importer, agent, dealer, or user.

Note: Authority cited: Sections 407, 14502, 14601, 14641, 14642 and 14645, Food and Agricultural Code. Reference: Section 14645, Food and Agricultural Code.

§ 2325. Records Maintenance and Audit.

Each licensee shall maintain in this state, or with the secretary's permission at another location, an accurate record of all transactions subject to assessment. These records shall be maintained for a period of not less than three years following the transaction and are subject to audit by the secretary. Records of all transactions subject to assessment shall be made available to the Department upon request.

Note: Authority cited: Sections 407, 14502 and 14612, Food and Agricultural Code.
Reference: Section 14612, Food and Agricultural Code.